

EXPRESS MAIL LABAEL NO. EV 063794647 US

JC02 Rec'd PCT/PTO 29 MAR 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Richard J. Whitley et al.

Attorney Docket: UAB-1610/22

Serial No.: 10/009,972

International Application: PCT/US00/40165

Priority Date: 08 June 1999

I.A. Filing Date: 08 June 2000

For: HERPES SIMPLEX VIRUS EXPRESSING FOREIGN GENES
AND METHOD FOR TREATING CANCERS THEREWITH

TECHNICAL CENTER 1600/2900

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**RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C.
371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

BOX PCT

Assistant Commissioner for Patents
Washington, D.C. 20231

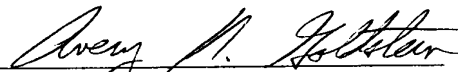
Dear Sir:

In response to the Notification of Missing Requirements dated 02/26/2002, Applicant is submitting herewith: (1) Copy of the Notification, (2) Copies of the documents submitted February 14, 2002, which are: (a) Transmittal Letter, (b) Executed Declaration and Power, (c) Check in the amount of \$65.00 paid, (d) Postcard (with PTO/PTC stamp), and (e) Express Mail receipt.

Although Applicant believes there are no further fees to be charged, since the late filing of the Declaration surcharge has already been paid, as indicated by the enclosed copies, the Commissioner is hereby authorized to charge any additional amount due to Deposit Account 07-1180. A duplicate of this document is enclosed.

If the Examiner has any further questions relating to this Application, Applicant's attorney may be reached at (248) 647-6000.

Respectfully submitted,



Avery N. Goldstein, Reg. No. 39,204
Attorney for Applicant
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward Ave, Ste. 400
Birmingham, MI 48009-5394
(248) 647-6000

FORM PTO-1390 (Modified) (REV 11-2000)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		ATTORNEY'S DOCKET NUMBER UAB-16102/22	
TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371				U.S. APPLICATION NO. (IF KNOWN, SEE 37 CFR 1.51) 10/009,972	
INTERNATIONAL APPLICATION NO. PCT/US00/40165		INTERNATIONAL FILING DATE 8 JUNE 2000		PRIORITY DATE CLAIMED 8 JUNE 1999	
TITLE OF INVENTION HERPES SIMPLEX VIRUS EXPRESSING FOREIGN GENES AND METHOD FOR TREATING CANCERS THEREWITH					
APPLICANT(S) FOR DO/EO/US WHITLEY, Richard J.; MARKERT, James Mac Dowell; GILLESPIE, George Yancey; PARKER, Jacqueline, Ness					
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:					
<ol style="list-style-type: none"> 1. <input type="checkbox"/> This is a FIRST submission of items concerning a filing under 35 U.S.C. 371. 2. <input checked="" type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371. 3. <input type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (24) indicated below. 4. <input type="checkbox"/> The US has been elected by the expiration of 19 months from the priority date (Article 31). 5. <input type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371 (c) (2)) <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> has been communicated by the International Bureau. c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US). 6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto. b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4). 7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3)) <ol style="list-style-type: none"> a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> have been communicated by the International Bureau. c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. d. <input type="checkbox"/> have not been made and will not be made. 8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). 9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)). 10. <input type="checkbox"/> An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)). 11. <input type="checkbox"/> A copy of the International Preliminary Examination Report (PCT/IPEA/409). 12. <input type="checkbox"/> A copy of the International Search Report (PCT/ISA/210). <p>Items 13 to 20 below concern document(s) or information included:</p> <ol style="list-style-type: none"> 13. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98. 14. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 15. <input type="checkbox"/> A FIRST preliminary amendment. 16. <input type="checkbox"/> A SECOND or SUBSEQUENT preliminary amendment. 17. <input type="checkbox"/> A substitute specification. 18. <input type="checkbox"/> A change of power of attorney and/or address letter. 19. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821 - 1.825. 20. <input type="checkbox"/> A second copy of the published international application under 35 U.S.C. 154(d)(4). 21. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4). 22. <input checked="" type="checkbox"/> Certificate of Mailing by Express Mail 23. <input checked="" type="checkbox"/> Other items or information: <div style="margin-left: 20px;">postcard</div> 					

U.S. APPLICATION NO. (IF KNOWN, SEE 37 CFR 1.5) 10/009,972	INTERNATIONAL APPLICATION NO. PCT/US00/40165	ATTORNEY'S DOCKET NUMBER UAB-16102/22
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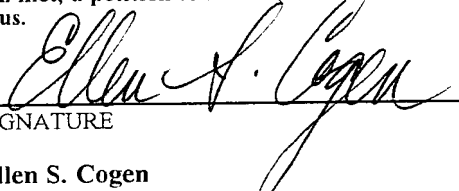
24. The following fees are submitted: BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5)) :				CALCULATIONS PTO USE ONLY	
<input type="checkbox"/> Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO \$1040.00 <input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO \$890.00 <input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO \$740.00 <input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4) \$710.00 <input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4) \$100.00				COPY	
ENTER APPROPRIATE BASIC FEE AMOUNT =					
Surcharge of \$130.00 for furnishing the oath or declaration later than <input type="checkbox"/> 20 <input checked="" type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492 (e)).				\$0.00	
				\$130.00	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	- 20 =	0	x \$18.00	\$0.00	
Independent claims	- 3 =	0	x \$84.00	\$0.00	
Multiple Dependent Claims (check if applicable). <input type="checkbox"/>				\$0.00	
TOTAL OF ABOVE CALCULATIONS =				\$130.00	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27). The fees indicated above are reduced by 1/2.				\$65.00	
SUBTOTAL =				\$65.00	
Processing fee of \$130.00 for furnishing the English translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492 (f)).				\$0.00	
TOTAL NATIONAL FEE =				\$65.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31) (check if applicable). <input type="checkbox"/>				\$0.00	
TOTAL FEES ENCLOSED =				\$65.00	
				Amount to be: refunded	\$
				charged	\$

- a. ☒ A check in the amount of **\$65.00** to cover the above fees is enclosed.
- b. ☐ Please charge my Deposit Account No. _____ in the amount of _____ to cover the above fees. A duplicate copy of this sheet is enclosed.
- c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. **07-1180** A duplicate copy of this sheet is enclosed.
- d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. **Credit card information should not be included on this form.** Provide credit card information and authorization on PTO-2038.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

Ellen S. Cogen
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward Avenue, Ste. 400
Birmingham, MI 48009-5394
(248) 647-6000


SIGNATURE
Ellen S. Cogen
NAME
38,109
REGISTRATION NUMBER
2/14/02
DATE



UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents, Box 401
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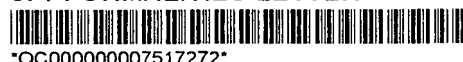
U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/009,972	Richard J. Whitley	UAB-16102/22

25006
 GIFFORD, KRASS, GROH, SPRINKLE
 ANDERSON & CITKOWSKI, PC
 280 N OLD WOODARD AVE
 SUITE 400
 BIRMINGHAM, MI 48009

*Correct Defects
 out. 3/26/02
 Due: 4/26/02*

INTERNATIONAL APPLICATION NO.	
PCT/US00/40165	
I.A. FILING DATE	PRIORITY DATE
06/08/2000	

CONFIRMATION NO. 5479
 371 FORMALITIES LETTER



OC00000007517272

Date Mailed: 02/26/2002

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- U.S. Basic National Fees
- Indication of Small Entity Status
- Copy of IPE Report
- Copy of the International Application
- Copy of the International Search Report
- Oath or Declaration
- Preliminary Amendments
- Request for Immediate Examination
- Small Entity Statement

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 MAR 04 2002
 GIFFORD, KRASS, GROH, SPRINKLE,
 ANDERSON & CITKOWSKI, P.C.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:
 - is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTH FROM THE DATE OF THIS NOTICE OR BY 22 or 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

LAMONT M HUNTER

Telephone: (703) 305-3686

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/009,972	PCT/US00/40165	UAB-16102/22

FORM PCT/DO/EO/905 (371 Formalities Notice)

COPY

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32479


9-9/720 49

DATE 2/13/02

GIFFORD, KRASS, GROH, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
280 N. OLD WOODWARD, STE. 400
BIRMINGHAM, MI 48009-5394

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Robert Sherard

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PATENT

The received stan the U.S. Patent and Trademark Office impii
hereon acknowledges the filing of:

- ☒ Transmittal Letter ☐ New Patent Application
- ☐ Page(s) Specifications ☐ Page(s) Claims
- ☐ Page(s) Abstract ☐ Sheets of Drawings
- ☐ Small Entity Declaration ☒ Declaration & Power of Atty
- ☐ IDS, PTO 1449 & Patents ☐ Assignment & Recordation Cover Sheet
- ☐ Amendment/Response ☒ Check \$ 165.00

1010 Rec'd PCT/PTO 1 4 FEB 2002

Other: _____

Inventor: Richard J. Whitley et al.

Serial/Reg. No. 10/009,972 Atty Docket No. UAB-16/02/22

Date: 2/14/2002 Date Due: _____

ESL
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